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In re Application of :
Shinya Nagata, et. al. :
Application No. 10/599,173 :
Filed: July 5, 2007 :
Attorney Docket No. 5553NA3-1 :
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on September 30, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed March 26, 2008. A Notice of Abandonment was mailed on October 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of \$1,050 for a three months extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the \$1,050 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 3735 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6226.

Andrea Smith
Petitions Examiner
Office of Petitions